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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/809,984	03/26/2004	James Steven Collins	30521/3073	9616

4743 7590 02/21/2007
MARSHALL, GERSTEIN & BORUN LLP
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SEARS TOWER
CHICAGO, IL 60606

EXAMINER

ENSEY, BRIAN

ART UNIT	PAPER NUMBER
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2615

MAIL DATE	DELIVERY MODE
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02/21/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/809,984

Applicant(s)

COLLINS, JAMES STEVEN

Examiner

Brian Ensey

Art Unit

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--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 30 January 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1-10, 19-36.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

ADVISORY ACTION

Response to Arguments

Applicant's arguments filed 01/30/07 have been fully considered but they are not persuasive. The applicant's arguments have been specifically addressed in the Final Rejection mailed on 10/30/06 however, in an effort to clarify some of the points of concern of the applicant, the Examiner will provide some additional comments.

With respect to the applicant's argument on page 7, lines 12-14 of the remarks submitted on 1/20/07 regarding claim 1 *that the reference does not specifically teach how such connecting is accomplished (wire bonding, solder, conductive adhesive, etc.), that such connecting is between the cover and the base and that such connecting is by an internal ground*, the Examiner agrees.

The Examiner asserts that the applicant does not claim any specific means for the ground connection and is reading limitations from the specification and drawings into the claims. Therefore, the Examiner maintains the rejection of claim 1 and all dependent claims.

With respect to the applicant's argument on page 7, lines 18-27 of the remarks submitted on 1/20/07 regarding claim 1, the Examiner points to the *Response to Arguments* on the bottom of page 8 as submitted by the Examiner in the Final Rejection mailed on 10/30/06.

With respect to the applicant's argument on page 8, lines 12-14 of the remarks submitted on 1/20/07 regarding claim 1 *that there is no illustration of an internal ground or any discussion that the described ground structure is an internal ground*, the Examiner respectfully disagrees.

The Examiner points to the *Response to Arguments* on page 9 as submitted by the Examiner in the Final Rejection mailed on 10/30/06. The Examiner clearly points out the ground structure as taught by the prior art. While the prior art does not specifically state *internal ground* it is inherent that the ground must be internal since the amplifier board is encased in the

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microphone housing. Therefore, the Examiner maintains the rejection of claim 7 and all dependent claims.

With respect to the applicant's argument on page 8, lines 25 and 26 and page 9, lines 2-3 of the remarks submitted on 1/20/07 regarding claim 1 *that neither Figs. 2A-2C nor the discussion accompanying these figures discuss any structure for ground coupling these components or that the prior art fails to teach or suggest any structure for accomplishing this coupling*, the Examiner respectfully disagrees.

The Examiner points to the *Response to Arguments* on page 10 as submitted by the Examiner in the Final Rejection mailed on 10/30/06. The Examiner clearly points out the ground structure as taught by the prior art. Furthermore, the Examiner asserts that the applicant does not claim any specific means for the ground connection and is reading limitations from the specification and drawings into the claims. Therefore, the Examiner maintains the rejection of claim 19 and all dependent claims.

With respect to the applicant's argument on page 9, lines 17-18 of the remarks submitted on 1/20/07 regarding claim 30 that *Van Halteren nowhere teaches or suggests three distinct ground paths*, the Examiner respectfully disagrees.

The Examiner points to the *Response to Arguments* on the bottom of page 10 as submitted by the Examiner in the Final Rejection mailed on 10/30/06. Therefore, the Examiner maintains the rejection of claim 30 and all dependent claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian Ensey whose telephone number is 571-272-7496. The examiner can normally be reached on Monday - Friday 6:30 AM - 3:00 PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sinh Tran can be reached on 571-272-7564. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks
P.O. Box 1450
Alexandria, Va. 22313-1450

Or faxed to:

(571) 273-8300, for formal communications intended for entry and for informal or draft communications, please label "PROPOSED" or "DRAFT".
Hand-delivered responses should be brought to:

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Randolph Building
401 Dulany Street
Arlington, VA 22314

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



SINH TRAN
SUPERVISORY PATENT EXAMINER

BKE
February 14, 2007